

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE:

GENERAL MOTORS LLC IGNITION
SWITCH LITIGATION

This Document Relates to All Actions

No. 14-md-2543 (JMF)

**APPLICATION OF MICHAEL A. CADDELL TO
SERVE ON EXECUTIVE COMMITTEE**

Michael A. Caddell has extensive experience serving as lead or co-lead counsel in national automotive class actions and coordinating large teams of law firms in multidistrict litigation. He is willing to devote his and his firm's time and effort on behalf of the Class in these consolidated actions. Caddell therefore respectfully requests that the Court appoint him to serve on the Executive Committee.

A. Caddell has extensive experience prosecuting multidistrict class-action litigation.

Michael A. Caddell and his firm, Caddell & Chapman, have an outstanding record representing primarily plaintiffs in complex class-action litigation across the United States. Caddell & Chapman has served as lead or co-lead counsel in dozens of class actions, including national multidistrict litigation. Michael A. Caddell is a past co-recipient of the Public Interest Award from The Trial Lawyers for Public Justice Foundation and has been named "Impact Lawyer of the Year" by *Texas Lawyer* magazine. Caddell & Chapman's other named partner, Cynthia Chapman, who is also working on behalf of the Class in these consolidated actions, has been named by the *National Law Journal* as one of the "Top 40 Lawyers under 40 in America" and one of the "Top 50 Women Litigators in America." Both Michael Caddell and Cynthia Chapman have been named by *LawDragon* as two of the "500 Leading Plaintiffs' Lawyers in America."

Prominent class-action expert Professor Geoffrey Miller, in commenting on Caddell & Chapman's work in *In Re: Trans Union Corp. Privacy Litigation*, at \$75 million the largest Fair Credit Reporting Act settlement in history (in which Michael Caddell served as Co-Lead Settlement

Counsel and Cynthia Chapman was the principal author of the settlement structure), stated “[h]aving worked closely with [Caddell & Chapman], I can also attest that they are among the finest class action attorneys I have been privileged to know during my two decades of experience in this field of law. They not only possess excellent analytical and rhetorical skills, but—more importantly—displayed remarkable qualities of judgment, imagination and persistence.”

To highlight just two prominent examples of Caddell & Chapman’s complex case experience: Michael Caddell recently served as sole lead counsel in *In re Navistar Diesel Engine Products Liability Litigation*, MDL No. 2223, which consolidated 35 cases from around the country involving a defect in Ford 6.0L Diesel engines. District Judge Matthew J. Kennelly of the Northern District of Illinois approved a nationwide settlement on behalf of over 1 million current and former owners of Ford vehicles equipped with these engines, agreeing with Harvard Professor William Rubenstein, author of *NEWBERG ON CLASS ACTIONS*, that the settlement provided roughly 50% of the full value of class members’ claims had the case been successfully litigated through trial and appeal, but without the attendant delay, cost, and risk.

Caddell also served as Co-Lead Counsel in the Polybutylene National Class Action Litigation in Tennessee, Texas, and California (*Cox v. Shell*, Civil No. 18,884 (Tenn. Ch. Ct.)), which recovered over \$1 billion for the class. Caddell served as Chairman of the Board of the Consumer Plumbing Recovery Center, the entity responsible for administering the settlement, which completely replumbed over 320,000 homes across America at no cost to individual homeowners.¹ **Caddell’s broad experience in automotive class-action litigation is detailed further below.** (*See* Section E, *infra*.)

¹ Caddell has also served as Lead or Co-Lead Counsel in, among many others, *Hotchkiss v. Little Caesar Enterprises*, a national class action in Texas and Michigan which resulted in a settlement valued at \$350 million and the complete restructuring of the Little Caesar’s franchise; *Elihu v. Toshiba*, a national class action settlement which provided extended warranties and other relief for over 860,000 purchasers of Toshiba laptop computers; *Teagle v. LexisNexis Screening Solutions, Inc.* (formerly “Choicepoint”), a nationwide FCRA Settlement given final approval on July 31, 2013, by Judge Richard Story for the Northern District of Georgia; *Williams v. LexisNexis Risk Management*, a \$22 million FCRA Settlement approved by Federal District Judge Robert Payne in Richmond, Virginia; *Hardy v. Hartford*, a nationwide settlement, approved by Federal Judge David Bury of Arizona, providing injunctive and monetary relief to a nationwide class of Hartford insureds with respect to the payment of General Contractors’ overhead and profit; *Rodriguez v.*

B. Caddell is willing and able to commit the necessary time and resources to this litigation.

Caddell & Chapman has demonstrated its ability and willingness to devote the time and resources necessary to achieve good results in complex cases. For example, in 2012, Caddell & Chapman led a group of four firms pursuing False Claims Act claims in a non-intervened *qui tam* case against DaVita, the nation's second-largest dialysis-treatment provider. During the course of the case, Caddell & Chapman took more than 40 depositions (Caddell himself took more than 35), reviewed hundreds of thousands of pages of documents, briefed dozens of motions—from discovery to four dispositive motions—and handled several fiercely contested hearings, and was victorious every time. The case settled for \$55 million paid to the United States and a confidential amount for attorneys' fees (which was disclosed to and approved by the U.S. Department of Justice). Caddell's record of success in this and other complex cases demonstrates that he and his firm can and will dedicate themselves to do the necessary work on behalf of the Class. (*See* Section A *supra*; Section E *infra*.)

C. Caddell has demonstrated ability to work cooperatively with others.

In the *In re Navistar* MDL litigation involving Ford, (*see* Section A *supra*), Caddell coordinated the efforts of more than 20 firms to achieve a nationwide settlement. Caddell has also demonstrated his ability to work cooperatively with other counsel in the Polybutylene National Class Action litigation (*see* Section A *supra*) and in numerous other class actions, including multiple automotive class actions (*see* Section E *infra*). In particular, Caddell has worked successfully with Temporary Lead Counsel, Lieff Cabraser Heimann & Bernstein, Hagens Berman, and Robinson Calcagnie in other cases and stands ready to do so again here.

D. Caddell has done significant work investigating and filing complaints on behalf of plaintiffs in two different states.

In these consolidated actions, Caddell & Chapman has been active and diligent on behalf of its clients and the Class. Caddell & Chapman has reviewed documents and other materials,

Farmers, et al., a nationwide settlement approved earlier this year by Federal Judge Jesus Bernal of Los Angeles involving absorbed deductibles on property damage insurance claims; and *White v. Experian, et al.*, a national class action injunctive relief settlement involving the three largest credit reporting agencies described by Federal Judge David Carter of Los Angeles as “ground breaking.”

researched the legal issues involved, and investigated and filed complaints on behalf of two of its multiple clients in Texas and New York who experienced economic loss (and, in Mr. Ross's case, personal injuries) as a result of Defendants' conduct: *Salazar v. General Motors*, No. 14-cv-4859 (transferred from the W.D. Tex.) and *Ross v. General Motors LLC et al.*, No. 14-cv-05503 (transferred from the E.D.N.Y.) In addition, Caddell & Chapman partner Cory S. Fein attended a strategy meeting with other Plaintiffs' counsel in Chicago and has worked with co-counsel to avoid duplication of work and coordinate efforts in these actions.

E. Michael A. Caddell and Caddell & Chapman have a deep knowledge of automotive product defect class-action law.

Caddell & Chapman has worked as lead or co-lead class counsel in multiple automotive class actions. In addition to the recent *In re Navistar* national multidistrict class action, (*see* Section A *supra*), Caddell & Chapman was also recently appointed Co-Lead counsel in an automotive defect case against Honda, in which a national class settlement for over 1.2 million class members was finally approved after Caddell & Chapman achieved a contested certification of a multi-state class before Federal District Judge Margaret Morrow and defeated a 23(f) Petition to the Ninth Circuit. *See Keegan v. Am. Honda Motor Co.*, 284 F.R.D. 504 (C.D. Cal. 2012). In addition, Judge Mueller in the Eastern District of California recently granted preliminary approval of another settlement against Honda in which Caddell & Chapman serves as Co-Lead counsel. Cynthia Chapman was also named Co-Lead Counsel in a national class action settlement in California involving some 80,000 purchasers of Nissan's 350Z; and Michael Caddell was named Co-Lead counsel in *In re Hyundai and Kia Horsepower Litigation*,² a national class action in California that made available to the class roughly \$125 million in cash and/or debit cards, and *In re Ford Motor Co. Speed Control Deactivation Switch Products Liability Litig.*, MDL No. 1718 (E.D. Mich.), in which Caddell & Chapman took the lead role in facilitating a double-tracked, multi-party mediation that resulted in more than 100 settlements of individual cases involving vehicle fires. Caddell &

² Case No. 02-cc-00287 (Cal. Super. Ct.).

Chapman has also prosecuted or is currently involved in other national automotive class actions against Nissan, Ford, and Volvo.

F. Caddell & Chapman's lawyers are licensed in Texas and California and also represent a New York client in this action.

Caddell & Chapman bring geographic diversity to this case in that, while headquartered in Houston, they represent plaintiffs in this action in Texas and New York and also practice in California. In addition, Caddell & Chapman has successfully prosecuted complex class actions in other courts around the country, including in Illinois, Virginia, California, Colorado, Arizona, Minnesota, New Mexico, Michigan, Florida, Washington, and Texas. (*See* Section A *supra*.) Michael Caddell is admitted to the State Bars of both Texas and California and to 15 federal district courts and seven federal courts of appeals.

G. Caddell's trial experience will help him serve the Class in these consolidated actions.

Caddell & Chapman has tried numerous complex cases (and evidentiary hearings) against the nation's top defense firms to a successful conclusion. For example, in March 2006, Michael Caddell and Cynthia Chapman completed a complex, hotly contested five-week trial against ExxonMobil in which the jury awarded Caddell & Chapman's client \$33.6 million³—ultimately, rather than pursuing an appeal, Exxon Mobil settled the matter. Notably, ExxonMobil's trial counsel at the time of trial was President-Elect of the American College of Trial Lawyers. Caddell's experience in this and more than 50 other jury trials and hundreds of evidentiary hearings distinguishes him from most other applicants; it is important to the Class that Defendants know that Plaintiffs' Counsel has extensive trial experience and can competently try a case.

Michael Caddell therefore requests that the Court allow him to address the Court briefly at the August 11 Initial Conference and appoint him to serve on the Executive Committee.

³ *Tetco v. ExxonMobil Corp.*, Cause No. 2003-CI-04424, 73rd Judicial District of Bexar County, Texas.

Dated: July 28, 2014

Respectfully submitted,

/s/ Michael A. Caddell

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CERTIFICATE OF SERVICE

I, Amy E. Tabor, hereby certify that this Application of Michael A. Caddell to Serve on Executive Committee was filed by the Court's CM/ECF system on July 28, 2014 and thereby served on all parties of record who are registered for electronic service. In addition, copies of this Application of Michael A. Caddell to Serve on Executive Committee were served by First Class Mail on the persons listed below.

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